

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 01-3783

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United States of America,

Appellee,

v.

Patrick L. Bark,

Appellant.

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Appeal from the United States  
District Court for the Western  
District of Missouri.

[UNPUBLISHED]

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Submitted: May 20, 2002

Filed: May 29, 2002

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Before McMILLIAN, FAGG, and LOKEN, Circuit Judges.

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PER CURIAM.

On appeal from the district court's<sup>\*</sup> revocation of Patrick L. Bark's supervised release and imposition of an additional term of imprisonment, Bark's counsel has filed a brief and moved to withdraw under Anders v. California, 386 U.S. 738 (1967). Although Bark was granted permission to file a supplemental brief, he has not done so.

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<sup>\*</sup>The Honorable Ortrie D. Smith, United States District Judge for the Western District of Missouri.

Having reviewed counsel's Anders brief, we reject counsel's argument that the district court abused its discretion by imposing imprisonment in excess of the Chapter 7 Sentencing Guidelines range and by not considering the severity of Bark's medical condition. (Bark testified he needed double knee replacements and had been unable to have the surgery in prison.) The Chapter 7 ranges are merely advisory, see United States v. Holmes, 283 F.3d 966, 968 (8th Cir. 2002), and the district court—which was fully apprised of Barks's medical condition—was not required to impose a lesser sentence on that basis. Indeed, the district court considered the Chapter 7 policy statements and believed the Guidelines range was inadequate to promote respect for the law, afford adequate deterrents to criminal conduct, and protect the public from further crimes.

Having reviewed the record independently, we find no other nonfrivolous issues for appeal. See Penson v. Ohio, 488 U.S. 75, 80 (1988). We thus affirm the district court and grant counsel's motion to withdraw.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.